

SUMMARY

ABA RECOMMENDATIONS, STAFF RESPONSE AND PROPOSED RECOMMENDATIONS TO THE BOARD OF GOVERNORS

<u>ABA RECOMMENDATION</u>	<u>STATE BAR OFFICE RESPONSE</u>	<u>PROPOSED RAD RECOMMENDATIONS TO THE BOARD OF GOVERNORS</u>
I. STRUCTURE AND RESOURCES		
2. Resource Allocation for and Structure of the Disciplinary Agency Should Ensure the Complete and Efficient Investigation and Prosecution of Complaints (PDF) (See Page 24 of Excerpts from ABA Report)		
2.1. The disciplinary agency should continue to prioritize the handling of cases to eliminate current backlog.	Chief Trial Counsel: Agree (See Page 1 of Staff Response) State Bar Court: No Position (See Page 1 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
2.2. Workload standards should include time guidelines for processing of cases with routine matters to be completed within six months and complex cases within twelve months.	Chief Trial Counsel: Agree (See Page 1 of Staff Response) State Bar Court: No Position (See Page 1 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

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2.3 The period of time from the filing of the Notice of Disciplinary Charges and the State Bar Court judges' opinions to not exceed six months except for complex matters.	State Bar Court: Disagree (See Page 2 of Staff Response) Chief Trial Counsel: Disagree (See Page 2 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
2.4. The period for appellate review generally should not exceed six months.	State Bar Court: Disagree (See Page 5 of Staff Response) Chief Trial Counsel: Disagree (See Page 5 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
2.5. Intake Unit's toll-free number should be staffed full time.	Chief Trial Counsel: Agree in Principle (See Page 8 of Staff Response) State Bar Court: No Position (See Page 8 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
2.5.A. Lawyers and Complaint Analysts should have standards and priorities for referral of matters to diversion programs.	Chief Trial Counsel: Agree (See Page 8 of Staff Response) State Bar Court: No Position (See Page 8 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

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2.5.B. Complaint Analysts should have additional training in mediation and dispute resolution techniques.	Chief Trial Counsel: Agree (See Page 9 of Staff Response) State Bar Court: No Position (See Page 9 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
2.6. The State Bar, as compared to the Office of the Chief Trial Counsel, should ensure appropriate cases involving lesser misconduct are addressed through diversion and alternatives to discipline program. State Bar to bring its resources and expertise to the operation of alternatives to discipline program. Prompt referral of such matters to alternative programs will permit the disciplinary agency to devote its resources to prompt investigation and prosecution of serious matters.	Chief Trial Counsel: Agree (See Page 9 of Staff Response) State Bar Court: No Position (See Page 9 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
2.6.A. Office of the Chief Trial Counsel to foster the vertical system as used by the Special Prosecutions Unit.	Chief Trial Counsel: Agree (See Page 10 of Staff Response) State Bar Court: No Position (See Page 10 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

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<p>2.7. After backlog is eliminated, Office of the Chief Trial Counsel to expand the verticalization of prosecutions by creating an additional specialized unit from staff to investigate and prosecute cases of minor misconduct not appropriate for referral to the alternatives of discipline program.</p>	<p>Chief Trial Counsel: Agree in Part (See Page 10 of Staff Response)</p> <p>State Bar Court: No Position (See Page 10 of Staff Response)</p>	<p>The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.</p>
<p>2.8. The probation monitoring program should be adequately funded and staffed.</p>	<p>Chief Trial Counsel: Agree in Principle (See Page 11 of Staff Response)</p> <p>State Bar Court: Agree in Principle (See Page 11 of Staff Response)</p>	<p>The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.</p>

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3. All Staff and Volunteers of the Lawyer Discipline System Should Continue to Receive Appropriate Training (PDF) (See Page 27 of Excerpts from ABA Report)		
3.1. Everyone in disciplinary system to receive appropriate and continuous training.	Chief Trial Counsel: Agree (See Page 12 of Staff Response) State Bar Court: Agree (See Page 12 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
3.2. Complaint Analysts to receive formalized training.	Chief Trial Counsel: Agree (See Page 12 of Staff Response) State Bar Court: No Position (See Page 12 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
3.2.A. Training for Complaint Analysts to include mediation and public relations courses.	Chief Trial Counsel: Agree (See Page 12 of Staff Response) State Bar Court: No Position (See Page 12 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

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3.2.B. Training for Complaint Analysts to include how to elicit necessary information from complaining witnesses, respondents and other witnesses.	Chief Trial Counsel: Agree (See Page 12 of Staff Response) State Bar Court: No Position (See Page 12 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
3.2.C. Training for Complaint Analysts to include recognizing matters to be referred to the alternatives to discipline program.	Chief Trial Counsel: Agree (See Page 12 of Staff Response) State Bar Court: No Position (See Page 12 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
3.3. Training for new Deputy Trial Counsel on how to comport themselves with opposing counsel.	Chief Trial Counsel: Agree (See Page 13 of Staff Response) State Bar Court: No Position (See Page 13 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
3.3.A. Training for Deputy Trial Counsel to include time spent with private practitioners and respondents' counsel to familiarize Deputy Trial Counsel with the operation & demands of private practice.	Chief Trial Counsel: Agree in Part (See Page 13 of Staff Response) State Bar Court: No Position (See Page 13 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

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3.4. Investigators to receive additional training to enhance thorough and expeditious inquiries, such as law enforcement agency courses and use of technology in gathering information.	Chief Trial Counsel: Agree (See Page 14 of Staff Response) State Bar Court: No Position (See Page 14 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

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4. Appropriate Resources Should Be Devoted to Enhance Public Access to and Confidence in the California Lawyer Discipline System (PDF) (See Page 29 of Excerpts from ABA Report)		
4.1. Increase publicity of disciplinary and other information on State Bar's website.	State Bar Court: Agree (See Page 15 of Staff Response) Chief Trial Counsel: No Position (See Page 15 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
4.2. The Office of the Chief Trial Counsel and State Bar to increase efforts to better educate the public and bar members about the disciplinary process.	Chief Trial Counsel: Agree (See Page 16 of Staff Response) State Bar Court: Agree (See Page 16 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
4.3. Disciplinary agency to resume meetings with respondents' bar and Office of the Chief Trial Counsel staff to speak to local bar associations about the process.	Chief Trial Counsel: Agree (See Page 16 of Staff Response) State Bar Court: Agree (See Page 16 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

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4.4. State Bar Court judges should hold bench/bar conferences.	State Bar Court: Agree (See Page 17 of Staff Response) Chief Trial Counsel: No Position (See Page 17 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
4.5. Deputy Trial Counsel and State Bar Court judges to speak to the public and law students about the lawyer disciplinary system.	Chief Trial Counsel: Agree (See Page 18 of Staff Response) State Bar Court: Agree (See Page 18 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
4.6. Disciplinary agency to produce videotapes and make available for public viewing at libraries and at law schools.	Chief Trial Counsel: Agree (See Page 18 of Staff Response) State Bar Court: Agree (See Page 18 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
4.7. Office of the Chief Trial Counsel should notice complainants of the dismissal of their complaint and include an explanation of reasons for the dismissal and the available remedies for reconsideration.	Chief Trial Counsel: Agree (See Page 18 of Staff Response) State Bar Court: No Position (See Page 18 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

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4.8. Office of the Chief Trial Counsel should give the complainant a copy of respondent's response to the grievance prior to the dismissal.	Chief Trial Counsel: Disagree (See Page 19 of Staff Response) State Bar Court: No Position (See Page 19 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

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II. PROCEDURES		
5. The Rules Relating to Resignations with Charges Pending Should Be Repealed (PDF) (See Page 31 of Excerpts from ABA Report)		
5.1. Rules on resignation with charges pending should be repealed. Respondents to admit culpability or have imposition of a disciplinary sanction before resignation is permitted. Respondent's action would be treated as consensual disbarment, not resignation.	State Bar Court: Disagree (See Page 21 of Staff Response) Chief Trial Counsel: Disagree (See Page 21 of Staff Response)	The Board of Governors should adopt a resolution affirming the positions recommended by the State Bar Court and the Office of the Chief Trial Counsel as set forth in this agenda item.
5.2. Respondent should be required to verify an affidavit acknowledging the facts alleged are true and that they are entering a voluntary agreement with full knowledge of the consequences.	State Bar Court: Disagree (See Page 24 of Staff Response) Chief Trial Counsel: Disagree (See Page 24 of Staff Response)	The Board of Governors should adopt a resolution affirming the positions recommended by the State Bar Court and the Office of the Chief Trial Counsel as set forth in this agenda item.

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5.3. The respondent should be required to notify clients, opposing counsel and the courts of the agreed discipline imposed, consistent with Rule 955.	State Bar Court: Disagree (See Page 26 of Staff Response) Chief Trial Counsel: Disagree (See Page 26 of Staff Response)	The Board of Governors should adopt a resolution affirming the positions recommended by the State Bar Court and the Office of the Chief Trial Counsel as set forth in this agenda item.

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<u>ABA RECOMMENDATION</u>	<u>STATE BAR OFFICE RESPONSE</u>	<u>PROPOSED RAD RECOMMENDATIONS TO THE BOARD OF GOVERNORS</u>
6. The Default Process Should Be Clarified and Streamlined (PDF) (See Page 33 of Excerpts from ABA Report)		
6.1. Language in the Notice of Disciplinary Charges re default warning should be amended to substitute the word “may” for “shall”, or Rule of Procedure 103 should be amended to require the Deputy Trial Counsel to file a motion for default and to deem the allegations of the Notice admitted.	State Bar Court: Agree (See Page 27 of Staff Response) Chief Trial Counsel: Disagree (See Page 27 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel as set forth in this agenda item.
6.2. Hearings in default cases to only include evidence of aggravation/mitigation or any additional documentary evidence be filed with the State Bar Court. Hearing judges’ default opinions to be more concise.	State Bar Court: Agree in Principle (See Page 28 of Staff Response) Chief Trial Counsel: Agree (See Page 28 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the State Bar Court as set forth in this agenda item.

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<p>6.3. Defaulting respondent to be suspended and required to petition for reinstatement, which would save future resources. Currently, low-level discipline routinely results in recidivism and waste of resources.</p>	<p>State Bar Court: Agree in Part (See Page 31 of Staff Response)</p> <p>Chief Trial Counsel: Agree (See Page 31 of Staff Response)</p>	<p>The Board of Governors should adopt a resolution affirming the position recommended by the State Bar Court as set forth in this agenda item.</p>

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<p>7. The Decision Whether to Disclose Otherwise Confidential Information in Designated Circumstances Should Rest Solely with the Office of the Chief Trial Counsel (PDF) <i>(See Page 35 of Excerpts from ABA Report)</i></p>		
<p>7.1. Waivers of Confidentiality: Amend the State Bar Act and Rule 2302 to allow only the Chief Trial Counsel, not the President of the Board of Governors, to disclose pendency of a matter under investigation.</p>	<p>Chief Trial Counsel: Agree <i>(See Page 36 of Staff Response)</i></p> <p>State Bar Court: No Position <i>(See Page 36 of Staff Response)</i></p>	<p>The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.</p>

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8. The Use of Early Neutral Evaluation Conferences to Expedite the Resolution of Matters Should Continue with Some Modifications (PDF) (See Page 36 of Excerpts from ABA Report)		
8.1. Once an Early Neutral Evaluation Conference is requested, steps should be taken to ensure its prompt scheduling.	State Bar Court: Agree (See Page 37 of Staff Response) Chief Trial Counsel: Agree (See Page 37 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
8.2. The Early Neutral Evaluation Conference should not be the first opportunity for Deputy Trial Counsel to obtain information from respondents.	State Bar Court: Agree (See Page 38 of Staff Response) Chief Trial Counsel: Agree (See Page 38 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

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<p>8.3. Deputy Trial Counsel in the General Investigations Unit should exercise subpoena power to compel recalcitrant respondents to provide information. General Investigations Unit to proactively investigate its cases and Deputy Trial Counsel to continue to provide respondents with all unprivileged information.</p>	<p>Chief Trial Counsel: Agree (See Page 39 of Staff Response)</p> <p>State Bar Court: No Position (See Page 39 of Staff Response)</p>	<p>The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.</p>

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9. Rules 182 and 211 of the Rules of Procedure of the State Bar of California Should Be Merged (PDF) (See Page 38 of Excerpts from ABA Report)		
9.1. Requirements of Rules 182 and 211 to be merged and expanded to ensure that pretrial conferences are regularly utilized, without discouraging parties from communicating and cooperating on discovery issues.	State Bar Court: Disagree (See Page 41 of Staff Response) Chief Trial Counsel: Agree (See Page 41 of Staff Response)	The Board of Governors should adopt a resolution affirming that changes to the current procedures, as set forth in this agenda item, are not necessary.
9.2. After the answer to a Notice of Disciplinary Charges is filed, the new Rule should provide the initial pretrial conference to be conducted within 15–20 days. Subsequent pretrial conferences to be held as necessary to ensure the expeditious progress of a case.	State Bar Court: Disagree (See Page 42 of Staff Response) Chief Trial Counsel: Agree (See Page 42 of Staff Response)	The Board of Governors should adopt a resolution affirming that changes to the current procedures, as set forth in this agenda item, are not necessary.

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<p>9.2.A. Subsequent to each pretrial conference, the judge should enter an order setting forth his actions and any agreements between the parties.</p>	<p>State Bar Court: Disagree (See Page 43 of Staff Response)</p> <p>Chief Trial Counsel: No Position (See Page 43 of Staff Response)</p>	<p>The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.</p>
<p>9.2.B. Routine pretrial conferences allow the judge to familiarize her/himself with the evidence before the trial.</p>	<p>State Bar Court: Disagree (See Page 44 of Staff Response)</p> <p>Chief Trial Counsel: Disagree (See Page 44 of Staff Response)</p>	<p>The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.</p>

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<u>ABA RECOMMENDATION</u>	<u>STATE BAR OFFICE RESPONSE</u>	<u>PROPOSED RAD RECOMMENDATIONS TO THE BOARD OF GOVERNORS</u>
10. Procedures to Place Lawyers on Involuntary Inactive Enrollment for Threat of Harm Should Be Streamlined (PDF) (See Page 40 of Excerpts from ABA Report)		
10.1. Bus. and Prof. Code Sections 6007(c)(1)–(4) and Rules 460 <i>et seq.</i> should be amended to expedite and simplify the process.	State Bar Court: Disagree (See Page 46 of Staff Response) Chief Trial Counsel: Disagree (See Page 46 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
10.1.A. Certain serious misconduct such as ongoing conversion of client funds, should warrant “ immediate suspension. ”	State Bar Court: Disagree (See Page 49 of Staff Response) Chief Trial Counsel: Disagree (See Page 49 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
10.2. The Office of the Chief Trial Counsel should transfer sufficient evidence with a proposed order to the regulatory court for immediate involuntary inactive enrollment.	Chief Trial Counsel: Agree in Principle (See Page 49 of Staff Response) State Bar Court: Agree (See Page 49 of Staff Response)	The Board of Governors should adopt a resolution affirming the positions recommended by the Office of the Chief Trial Counsel and the State Bar Court as set forth in this agenda item.

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10.2.A. The Office of the Chief Trial Counsel should provide respondent with notice of filing, which may be by telephone.	Chief Trial Counsel: Disagree (See Page 50 of Staff Response) State Bar Court: No Position (See Page 50 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
10.2.B. Hearings on applications for involuntary inactive enrollments should be eliminated.	Chief Trial Counsel: Disagree (See Page 51 of Staff Response) State Bar Court: Disagree (See Page 51 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
10.3. State Bar Act rules which require the State Bar Court to consider who is likely to suffer greater injury if petition denied should be eliminated.	Chief Trial Counsel: Agree (See Page 52 of Staff Response) State Bar Court: Disagree (See Page 52 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the State Bar Court as set forth in this agenda item.

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11. The Review Department of the State Bar Court Should Use a More Deferential Standard of Review (PDF) (See Page 43 of Excerpts from ABA Report)		
11.1. The Review Department should adopt a more deferential standard of review in its review of disciplinary matters.	State Bar Court: Disagree (See Page 54 of Staff Response) Chief Trial Counsel: Disagree (See Page 54 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
11.2. The factual determinations of the hearing department should stand unless there is evidence that findings of facts are clearly erroneous. Hearing judge's conclusions of law and recommended discipline should not be reversed unless the judge acted arbitrarily.	State Bar Court: Disagree (See Page 55 of Staff Response) Chief Trial Counsel: Disagree (See Page 55 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
11.3. The appeals process should be expedited through promptly obtaining hearing transcripts and scheduling oral argument at the Review Department.	State Bar Court: Agree in Principle (See Page 56 of Staff Response) Chief Trial Counsel: Agree (See Page 56 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

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<p>12. Lawyers Petitioning for Reinstatement Should Be Responsible for the Costs of Those Proceedings (PDF) (See Page 44 of Excerpts from ABA Report)</p>		
<p>12.1. Disciplined lawyers should be required to pay for the costs of reinstatement proceedings.</p>	<p>State Bar Court: Study (See Page 59 of Staff Response)</p> <p>Chief Trial Counsel: Agree (See Page 59 of Staff Response)</p>	<p>The Board of Governors should adopt a resolution affirming the position recommended by the State Bar Court to further study this issue as set forth in this agenda item.</p>

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13. Section 6043.5 of the Business and Professions Code Should Be Repealed (PDF) (See Page 45 of Excerpts from ABA Report)		
13.1. The State Bar, in its discretion, may report to the District Attorney's office any false and malicious reports and complaints made by anyone alleging ethical misconduct (Bus. & Prof. Code Section 6043.5). Section 6043.5 should be repealed. Complainants should have absolute immunity for any communications made to the disciplinary agency, but this should not protect complainants who commit perjury or who make slanderous statements outside the disciplinary proceedings	Chief Trial Counsel: Disagree (See Page 61 of Staff Response) State Bar Court: No Position (See Page 61 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

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ABA RECOMMENDATIONS, STAFF RESPONSE AND PROPOSED RECOMMENDATIONS TO THE BOARD OF GOVERNORS

<u>ABA RECOMMENDATION</u>	<u>STATE BAR OFFICE RESPONSE</u>	<u>PROPOSED RAD RECOMMENDATIONS TO THE BOARD OF GOVERNORS</u>
14. Complainants Should Be Kept Fully Apprised of the Status of Their Complaints and Should Be Provided a Mechanism for Reconsideration of the Dismissal of Their Grievance (PDF) (See Page 46 of Excerpts from ABA Report)		
14.1. The Office of the Chief Trial Counsel should ensure the complainants are provided notice of their dismissed complaints. Complainants should be able to request the Office of the Chief Trial Counsel to reconsider a dismissed complaint, per Rule 2063.	Chief Trial Counsel: Agree (See Page 62 of Staff Response) State Bar Court: No Position (See Page 62 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
14.2. Complainants should be given directions for requesting reconsideration should be given in the closure letters, noting the circumstance under which such a request can be granted. This should decrease the number of requests for reconsideration.	Chief Trial Counsel: Agree (See Page 62 of Staff Response) State Bar Court: No Position (See Page 62 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

SUMMARY

ABA RECOMMENDATIONS, STAFF RESPONSE AND PROPOSED RECOMMENDATIONS TO THE BOARD OF GOVERNORS

<u>ABA RECOMMENDATION</u>	<u>STATE BAR OFFICE RESPONSE</u>	<u>PROPOSED RAD RECOMMENDATIONS TO THE BOARD OF GOVERNORS</u>
15. The Use of the Vague Term “Moral Turpitude” Should Be Eliminated from the Statutes and Rules Relating to Lawyer Conduct and Discipline (PDF) (See Page 48 of Excerpts from ABA Report)		
15.1. The term “moral turpitude” is subjective, and should be eliminated from the statutes and rules relating to lawyer conduct and discipline.	State Bar Court: Disagree (See Page 64 of Staff Response) Chief Trial Counsel: Disagree (See Page 64 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
15.2. Amend State Bar Act and Rules of Procedure to eliminate and replace with “serious crime” as defined in MRLDE 19.	State Bar Court: Disagree (See Page 66 of Staff Response) Chief Trial Counsel: Disagree (See Page 66 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.
15.3. Rules and statutes should provide for the Supreme Court to enter an order of immediate interim suspension upon finding of guilt (rather than on entry of judgment of criminal conviction).	State Bar Court: Disagree (See Page 68 of Staff Response) Chief Trial Counsel: Agree (See Page 68 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

SUMMARY

ABA RECOMMENDATIONS, STAFF RESPONSE AND PROPOSED RECOMMENDATIONS TO THE BOARD OF GOVERNORS

<u>ABA RECOMMENDATION</u>	<u>STATE BAR OFFICE RESPONSE</u>	<u>PROPOSED RAD RECOMMENDATIONS TO THE BOARD OF GOVERNORS</u>
<p>16. The Rules Governing Lawyer Conduct and Disciplinary Proceedings Should Be Compiled in a More User-Friendly Manner (PDF) (See Page 50 of Excerpts from ABA Report)</p>		
<p>16.1. Supreme Court should appoint a task force to revise and compile in one document all of the Rules of Professional Conduct and statutes governing lawyer conduct, and the rules of procedure relating to the discipline system. Superseded rules or statutes should be published, if at all, after the current rule instead of before it.</p>	<p>Chief Trial Counsel: Agree (See Page 69 of Staff Response)</p> <p>State Bar Court: Agree (See Page 69 of Staff Response)</p>	<p>The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.</p>

SUMMARY

ABA RECOMMENDATIONS, STAFF RESPONSE AND PROPOSED RECOMMENDATIONS TO THE BOARD OF GOVERNORS

<u>ABA RECOMMENDATION</u>	<u>STATE BAR OFFICE RESPONSE</u>	<u>PROPOSED RAD RECOMMENDATIONS TO THE BOARD OF GOVERNORS</u>
III. ALTERNATIVE PROGRAMS		
17. The Existing Alternatives to Discipline Program Should Be Enhanced and Moved to the State and Local Bars (PDF) (<i>See Page 51 of Excerpts from ABA Report</i>)		

SUMMARY

ABA RECOMMENDATIONS, STAFF RESPONSE AND PROPOSED RECOMMENDATIONS TO THE BOARD OF GOVERNORS

<u>ABA RECOMMENDATION</u>	<u>STATE BAR OFFICE RESPONSE</u>	<u>PROPOSED RAD RECOMMENDATIONS TO THE BOARD OF GOVERNORS</u>
<p>17.1. The State Bar and local bar associations should bring their resources and expertise to the operation of alternatives to discipline programs.</p>	<p>Chief Trial Counsel: Agree (See Page 71 of Staff Response)</p> <p>State Bar Court: No Position (See Page 71 of Staff Response)</p>	<p>The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.</p>
<p>IV. SANCTIONS</p>		

SUMMARY

ABA RECOMMENDATIONS, STAFF RESPONSE AND PROPOSED RECOMMENDATIONS TO THE BOARD OF GOVERNORS

<u>ABA RECOMMENDATION</u>	<u>STATE BAR OFFICE RESPONSE</u>	<u>PROPOSED RAD RECOMMENDATIONS TO THE BOARD OF GOVERNORS</u>
18. The Issuance of Private Reprovals After the Filing of Formal Charges and Admonitions Should Be Eliminated (PDF) (See Page 53 of Excerpts from ABA Report)		
18.1. Private reproof after the filing of a Notice of Disciplinary Charges should be eliminated.	Chief Trial Counsel: Agree (See Page 73 of Staff Response) State Bar Court: Disagree (5-3) (See Page 73 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the State Bar Court as set forth in this agenda item.
18.2. Admonitions should be eliminated.	Chief Trial Counsel: Agree (See Page 75 of Staff Response) State Bar Court: Agree (See Page 75 of Staff Response)	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.

SUMMARY

ABA RECOMMENDATIONS, STAFF RESPONSE AND PROPOSED RECOMMENDATIONS TO THE BOARD OF GOVERNORS

<u>ABA RECOMMENDATION</u>	<u>STATE BAR OFFICE RESPONSE</u>	<u>PROPOSED RAD RECOMMENDATIONS TO THE BOARD OF GOVERNORS</u>
19. The Standards for Attorney Sanctions for Professional Conduct Should Be Updated (PDF) <i>(See Page 54 of Excerpts from ABA Report)</i>		
19.1. Substantive revisions to the Standards should be made and submitted for adoption by the Supreme Court.	<p>State Bar Court: Agree <i>(See Page 77 of Staff Response)</i></p> <p>Chief Trial Counsel: Agree <i>(See Page 77 of Staff Response)</i></p>	The Board of Governors should adopt a resolution affirming the position recommended by the Office of the Chief Trial Counsel and/or the State Bar Court as set forth in this agenda item.